



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.****Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals except of such cases as are reported in full.

**BACKUS *v.* NORFOLK & A. TERMINAL CO.**

June 8, 1911.

[71 S. E. 528.]

**1. Railroads (§ 421\*)—Injury to Animals—Contributory Negligence.**—Where plaintiff's servant drove along parallel to defendant's track for 180 yards, and onto the crossing, without looking in the direction from which he had come, the track being visible for between a quarter and half a mile from the crossing, it was contributory negligence, barring recovery for injury to the team by collision at the crossing.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1501-1510; Dec. Dig. § 421.\* 4 Va.-W. Va. Enc. Dig. 136.]

**2. Railroads (§ 419\*)—Injury to Animals—Care Required of Motorman.**—The motorman of an electric car, who saw a team walking toward a crossing, and with nothing to indicate that the driver was not in full control of the team or was not in full possession of his faculties, was entitled to presume that he would not drive onto the crossing in front of the car, when in plain sight.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1489-1500; Dec. Dig. § 419.\* 4 Va.-W. Va. Enc. Dig. 130.]

Error to Circuit Court, Norfolk County.

Action by one Backus against the Norfolk & Atlantic Terminal Company. From a judgment for defendant, plaintiff brings error. Affirmed.

*Thos. H. Willcox*, for plaintiff in error.

*Williams & Tunstall*, for defendant in error.

**VAUGHAN *v.* PLEASONTON et al**

June 8, 1911.

[71 S. E. 529.]

**1. Brokers (§ 63\*)—Compensation—Right to—Refusal of Principal.**—A real estate broker must complete the sale, with a purchaser able, ready, and willing to complete the purchase upon the terms agreed upon, before he is entitled to his commissions; and when

\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

he has found such a purchaser, who has entered into a valid contract, his right to compensation cannot be defeated by the seller's misrepresentation, or by his unreasonable refusal to comply with his contract.

[Ed. Note.—For other cases, see *Brokers*, Cent. Dig. §§ 94-96; Dec. Dig. § 63.\* 2 Va.-W. Va. Enc. Dig. 639.]

**2. Brokers (§ 64\*)—Compensation—Services—Completion of Sale.**—Where a broker employed to sell land found a purchaser on the required conditions, but when the parties met to make the sale the purchaser refused to enter into the contract agreed on, but insisted on one materially different and less advantageous to the vendor, which the vendor refused, the broker was not entitled to commissions.

[Ed. Note.—For other cases, see *Brokers*, Cent. Dig. § 97; Dec. Dig. § 64.\* 2 Va.-W. Va. Enc. Dig. 639.]

**Error to Circuit Court, Goochland County.**

Action by R. F. Vaughan against Alfred Pleasonton and another. From a judgment for defendants, plaintiff brings error. Affirmed.

*Rosewell Page, John Rutherford, C. R. Sands, and D. H. & Walter Leake*, for plaintiff in error.

*Smith, Moncure & Gordon*, for defendants in error.

---

SMILEY *v.* SMILEY'S ADM'X et al.

June 8, 1911.

[71 S. E. 532.]

**1. Partnership (§ 305\*)—Sharing Profits and Losses—Division of Capital.**—The general rule, that in the absence of any agreement, express or implied, partners share profits and losses of the business equally, although they have not contributed equally to the partnership capital, does not apply to the division of partnership capital; but partners may by agreement provide for an equal share in the capital, although their contributions thereto are unequal.

[Ed. Note.—For other cases, see *Partnership*, Cent. Dig. §§ 703-705; Dec. Dig. § 305.\* 10 Va.-W. Va. Enc. Dig. 832, 886.]

**2. Reference (§ 99\*)—Findings of Fact—Conclusiveness.**—Where the evidence is taken before the commissioner, and is conflicting, and there are circumstances affecting the credibility of some of the witnesses, their bearing on the stand is of importance in determining the weight of their testimony, and findings of fact by the commissioner should not as a rule be disturbed.

[Ed. Note.—For other cases, see *Reference*, Cent. Dig. § 153; Dec. Dig. § 99.\* 11 Va.-W. Va. Enc. Dig. 748, 752.]

---

\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.